

# Exhibit 5

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**From:** Bryan Cannon  
**Sent:** Thursday, October 24, 2024 7:18 AM  
**To:** Tezayan, Michael; #Netlist-Samsung293; jtruelove@mckoolsmith.com  
**Cc:** FISH SERVICE Samsung/Netlist 22cv00293; melissa@gillamsmithlaw.com  
**Subject:** RE: Netlist v. Samsung-293 | Witnesses

Michael,

Samsung has fully complied with the Court's order. Samsung's witness list reflects all witnesses it intends to call live to rebut the evidence Samsung anticipates that Netlist will present at trial and to support Samsung's affirmative defenses in the time that the Court has allotted. Samsung will not move any witness from the "may call" list to the "will call" list. However, because Netlist will put its case on first, depending on the evidence Netlist ultimately introduces, some of these witnesses may ultimately be rendered unnecessary. If so, we will ask the Court for permission to release them. For example, because Netlist did not list Mr. Groehn, we are evaluating whether to call Dr. Perryman, and we will promptly inform you. Note, however, that Samsung objects to Netlist's presentation of a regression analysis through Mr. Kennedy, and maintains that Dr. Groehn should attend trial and testify live if Netlist wishes to rely on his regression analysis. Please advise.

Best,  
Bryan

**Bryan J Cannon**

Associate ■ Fish & Richardson P.C.

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**From:** Tezayan, Michael <mtezayan@irell.com>  
**Sent:** Wednesday, October 23, 2024 7:48 PM  
**To:** Bryan Cannon <cannon@fr.com>; #Netlist-Samsung293 <Netlist-Samsung293@irell.com>; jtruelove@mckoolsmith.com  
**Cc:** FISH SERVICE Samsung/Netlist 22cv00293 <FISHSERVICESamsung/Netlist22cv00293@fr.com>; melissa@gillamsmithlaw.com  
**Subject:** RE: Netlist v. Samsung-293 | Witnesses

[This email originated outside of F&R.]

Counsel,

Samsung's identification of witnesses is a clear violation of the Court's order at the pre-trial conference requiring the parties to provide "a final live witness list identifying the witnesses that each party are going to actually call." PTC Vol. 1 Tr. 14:11-15. If Samsung does not provide a list of witnesses it is actually going to call live by 5 pm CT tomorrow, Netlist will plans to inform the Court of Samsung's violation of its order.

Best,  
Michael

**Michael Tezyan***Associate*

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**From:** Bryan Cannon <[cannon@fr.com](mailto:cannon@fr.com)>**Sent:** Wednesday, October 23, 2024 10:00 AM**To:** #Netlist-Samsung293 <[Netlist-Samsung293@irell.com](mailto:Netlist-Samsung293@irell.com)>; [jtruelove@mckoolsmith.com](mailto:jtruelove@mckoolsmith.com)**Cc:** FISH SERVICE Samsung/Netlist 22cv00293 <[FISHSERVICESamsung/Netlist22cv00293@fr.com](mailto:FISHSERVICESamsung/Netlist22cv00293@fr.com)>; ~Smith, Melissa <[melissa@gillamsmithlaw.com](mailto:melissa@gillamsmithlaw.com)>**Subject:** Netlist v. Samsung-293 | Witnesses

Counsel:

Pursuant to the § N, ¶ (12) of the Pre-Trial Order (Dkt. 777) and the Court's order at the Pre-Trial Conference (PTC Vol. 1 Tr. 14:11-18), Samsung identifies the following witnesses that it anticipates it will call live (in alphabetical order by last name):

Samsung Expert Witnesses

- John Halbert
- Lauren Kindler
- Joseph McAlexander
- Ray Perryman

Samsung Fact Witnesses

- Joseph Calandra
- Hyun Ki Ji
- Sung Joo Park
- Junseon Yoon

The witnesses that Samsung ultimately calls live will depend on Netlist's trial evidence and presentation. Samsung reserves the right not to call one or more of the foregoing witnesses. Should any changes arise in the course of the trial (e.g., circumstances resulting in the narrowing of the above witness list, or necessitating additional witnesses listed in Samsung's witness list, Dkt. 694-4), Samsung will promptly inform Netlist.

In addition, Samsung reserves the right to present deposition designations in accordance with the procedures set forth in the Pre-Trial Order and the Court's order at the Pre-Trial Conference.

Best,  
Bryan

**Bryan J Cannon**

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